

Decision 17-09-015 September 14, 2017

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
for Authority, Among Other Things, to Increase
Rates and Charges for Electric and Gas Service
Effective on January 1, 2017. (U39M)

Application 15-09-001
(Filed September 1, 2015)

**DECISION GRANTING COMPENSATION TO ENVIRONMENTAL
DEFENSE FUND FOR CONTRIBUTION TO DECISION 17-05-013**

Intervenor: Environmental Defense Fund	For contribution to Decision (D.) 17-05-013
Claimed: \$82,397.50	Awarded: \$81,701.50
Assigned Commissioner: Michael Picker	Assigned ALJ: Stephen C. Roscow

PART I: PROCEDURAL ISSUES:

A. Brief description of Decision:	<p>In D. 17-05-013, the Commission approves the Settlement Agreement, with two modifications of provisions of the Settlement Agreement that are found to be either not reasonable in light of the whole record, not consistent with law, or not in the public interest. The two contested issues are also resolved. PG&E is authorized a General Rate Case revenue requirement increase for 2017 of \$88 million over its currently authorized level of \$7.916 billion, a 1.1% increase. This authorized increase is the net result of a decrease from 2016 levels of \$62 million for electric distribution, a decrease of \$3 million for gas distribution, and an increase of \$153 million for electric generation. The Commission also authorizes post-test year revenue requirement increases of \$444 million in 2018 (an annual increase of 5.5%), and \$361 million in 2019 (an annual increase of 4.3%). With these specified exceptions, the Settlement Agreement is adopted:</p> <ul style="list-style-type: none"> •PG&E shall establish a Rule 20A balancing account that tracks the annual capital and expense costs for Rule 20A undergrounding projects, on a forecast and recorded basis. In addition, PG&E, the City of Hayward, and Commission staff are directed to determine a joint estimate of the scope and funding required for an audit of PG&E’s Rule 20A program. •Section 3.1.5.2 of the Settlement Agreement, as reflected in the Settling Parties’ April 24, 2017 proposed alternative provisions, is adopted. PG&E shall file a standalone application for recovery of recorded costs in its Residential Rates Reform Memorandum Account, or shall seek recovery in Commission Rulemaking 12-06-013. •Section 3.1.9.3 of the Settlement Agreement is not adopted. Instead PG&E shall file an advice letter to establish a two-way tax memorandum account in the form described in this decision. PG&E’s total authorized 2017 revenue requirements for its gas distribution, electric distribution, and electric generation lines of business are \$1.738 billion, \$4.151 billion, and \$2.115 billion, respectively, a total of \$8.004 billion. <p>Overall, D. 17-05-013 finds that the comprehensive Settlement Agreement entered into by PG&E and the other Settling Parties is reasonable, consistent with the law and in the public interest.</p>
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	October 29, 2015	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	November 23 2015	Verified
4. Was the NOI timely filed? Yes		Yes
Showing of eligible customer status (§ 1802(b) or eligible local government entity status (§§ 1802(d), 1802.4):		
5. Based on ALJ ruling issued in proceeding number:	R. 12-06-013	Verified
6. Date of ALJ ruling:	February 25, 2013	Verified
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer status or eligible government entity status?		Yes
Showing of “significant financial hardship” (§1802(h) or §1803.1(b))		
9. Based on ALJ ruling issued in proceeding number:	A. 16-08-006	Verified
10. Date of ALJ ruling:	January 20, 2017	Verified
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D. 17-05-013	Verified
14. Date of issuance of Final Order or Decision:	May 18, 2017	Verified
15. File date of compensation request:		June 15, 2017
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION**A. Did the Intervenor substantially contribute to the final decision (see § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059).**

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>EDF actively participated in the discovery and investigative portion of the proceeding and once Settlement Discussions advanced to fruition, EDF negotiated and entered the Proposed Settlement Agreement. EDF filed Opening and Reply Testimonies, on April 29, 2017 and May 26, 2017, respectively. EDF actively participated in numerous Settlement negotiations throughout May, June, July and August 2017.</p> <p>In addition, in August 2017, EDF, along with other parties, filed opening and reply comments advocating for the overall adoption of the Settlement Agreement and regarding one of two contested issues.</p> <p>EDF, along, with other parties, filed comments on the Proposed Decision.</p> <p>EDF continually advocated for the reduction of methane emissions in the natural gas distribution system through the use of leak surveying, detection and the cost-effective remediation of leaks. In addition, EDF advocated for a balancing account to address the costs of leak management</p>	<p>1.2 Further Procedural Developments</p> <p>On April 8, 2016, the Commission's Office of Ratepayer Advocates (ORA) served its testimony and on April 29, 2016, the following intervenors served testimony: ...</p> <ul style="list-style-type: none"> • Environmental Defense Fund (EDF)... <p>On May 26 and 27, 2016, PG&E, CUE, EDF and SSJID served rebuttal testimony.</p> <p>In May 2016 and continuing during the months thereafter, parties engaged in settlement discussions. Page 12.</p> <p>1.3 Joint Motion for Adoption of Settlement Agreement</p> <p>On July 21, 2016, pursuant to Rule 12.1(b) of Commission's Practice and Procedure (Rules), PG&E notified all parties on the service list for this proceeding of a settlement conference in order to discuss the terms of a possible settlement agreement.</p> <p>The settlement conference took place on August 3, 2016. On the same day, following the settlement conference, the Settling Parties signed a Settlement Agreement and filed and served a Joint Motion for Adoption of Settlement Agreement (Joint Motion).</p> <p>The Settling Parties are:</p> <ul style="list-style-type: none"> •PG&E •ORA •TURN •A4NR •Center for Accessible Technology 	<p>Verified</p>

<p>and increased transparency into leak management activities for ratepayers.</p>	<p>(CforAT)</p> <ul style="list-style-type: none"> •CUE •CAUSE •CFC •EDF •MCE •Merced ID •Modesto ID •NDC •SBUA •SSJID <p>Page 13-14.</p> <p>Article 4 of the Settlement Agreement sets forth two contested issues over which the Settling Parties were unable to gain consensus. These issues concern: (i) a third post-test year and (ii) gas leak management. The Settling Parties proposed to present their respective positions on these contested issues through opening and reply comments on the Joint Motion.</p> <p>On August 18, 2016 the following parties filed comments on the Settlement Agreement: PG&E, CUE and EDF (jointly on the second contested issue); ORA and PG&E (jointly on the first contested issue); CFC; and A4NR.</p> <p>On August 25, 2016 the following parties filed reply comments on the Settlement Agreement: PG&E, CUE and EDF (jointly); ORA and PG&E (jointly on the first contested issue); and CFC. Pages 14-15.</p> <p>3.2 The Settling Parties</p> <p>The Settling Parties explain that they represent a variety of interests other than those of PG&E. For example, ORA, TURN, CFC and NDC represent the diverse interests of consumers of gas and electricity, including low-income</p>	
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	<p>consumers. SBUA represents the interests of small businesses. A4NR represents the interests of consumers concerned about PG&E's nuclear operations. CforAT represents the interests of disabled customers. CUE represents the interests of represented utility employees at PG&E and other utility employees throughout the state. CAUSE represents the interests of consumers with a focus on utility safety. EDF represents the interests of consumers regarding environmental issues. MCE represents the interests of consumers regarding community choice aggregation and related issues. Merced ID, Modesto ID, and SSJID represent the interests of irrigation districts. Pages 36-37.</p> <p>3.4.9. EDF's Position</p> <p>EDF addressed PG&E's expenses and system improvements in relation to methane emissions reductions and long-term planning. EDF sought to ensure that PG&E has the ability to implement anticipated regulations requiring methane emissions reductions. Page 41.</p> <p>4.1.10. Balancing and Memorandum Accounts (Section 3.1.10)</p> <p>Other parties, such as EDF, proposed the adoption of new balancing accounts. Section 3.1.10 of the Settlement Agreement summarizes the various agreements on balancing and memorandum accounts. Page 118.</p> <p>4.1.10.3. Accounts to Be Created</p> <p>[i]n response to a recommendation from EDF, the Settlement Agreement presents a New Environmental</p>	
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	<p>Regulatory Balancing Account for gas distribution. However, this new environmental account for gas distribution is one of the two contested provisions set forth in Article 4 of the Settlement Agreement. Page 121.</p> <p>4.2.1. Gas Distribution (Section 3.2.1) 4.2.1.1. Gas Leak Management (Section 3.2.1.1)</p> <p>In its testimony, PG&E forecast performing leak surveys on a four-year cycle. ORA and TURN recommended that the Commission fund a five-year leak survey cycle. EDF and CUE recommended that the Commission fund and require PG&E to perform a three-year leak survey. CUE also recommended that PG&E be required and funded to perform an annual leak survey of Aldyl-A pipe, and EDF recommended additional monitoring of certain vintage pipe. EDF also recommended that the Commission authorize sufficient funds for PG&E to implement the emissions reduction measures currently under consideration in R.15-01-008 related to SB 1371.</p> <p>Settling Parties assert that Section 3.2.1.1 of the Settlement Agreement adopts a reasonable compromise of these litigation positions. First, it recognizes that the settled-upon revenue requirement is sufficient for PG&E to perform leak surveys on a four-year cycle, and provides that PG&E will commence a four-year cycle starting in 2017. Second, to increase transparency and facilitate emissions reductions, it also requires PG&E to do the following:</p> <ol style="list-style-type: none"> 1. Collect leak survey and leak find rate data by Maintenance Activity Type differentiated by leak grade; 2. Perform analysis on the likelihood of Grade 3 leaks becoming more hazardous 	
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	<p>over time;</p> <p>3. Provide information on open leaks on a publicly accessible web site;</p> <p>4. Keep the number of open above-ground Grade 3 leaks at a minimum;</p> <p>5. Reduce the number of open below-ground Grade 3 leaks, as authorized funding allows; and</p> <p>6. Continue to work collaboratively with EDF and CUE to evaluate technologies that may be implemented for stationary leak monitoring at certain facilities.</p> <p>Pages 142-143.</p> <p>4.3.2. Gas Leak Management (Section 4.2 of the Settlement Agreement)</p> <p>The parties were unable to reach consensus on whether PG&E should be authorized in this GRC decision to establish a new balancing account to record costs to comply with gas leak management requirements that may emerge from Commission Rulemaking R.15-01-008.</p> <p>CUE, EDF and PG&E recommend that such a balancing account be established in this proceeding. TURN, CAUSE and CFC oppose the recommendation.</p> <p>In Section 4.2 of the Settlement Agreement, CUE, EDF and PG&E agree to support Commission approval of following provisions (ORA opposes Section 4.2.1 and has proposed a four-year cycle in R.15-01-008):</p> <p>4.2.1 PG&E agrees to support adoption of a minimum 3-year leak survey cycle in R.15-01-008.</p> <p>4.2.2 CUE, EDF and PG&E agree that, to enable PG&E to implement new regulatory requirements upon their adoption in Phase 1 of R.15-01-008, a New Environmental Regulatory Balancing Account (NERBA) should be</p>	
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	<p>adopted. PG&E shall be authorized to track and record to the NERBA incremental Gas Distribution Emission Reduction Costs associated with new regulatory requirements pertaining to gas distribution leak management activities, adopted in Phase 1 of R.15-01-008, until the Commission makes a decision regarding costs in Phase 2.</p> <p>4.2.3 PG&E will file a Tier 1 Advice Letter after the Commission's issuance of a final decision in the 2017 GRC to establish the NERBA.</p> <p>4.2.4 PG&E is authorized to recover the costs recorded to the NERBA annually by including them in PG&E's Annual Gas True-up advice letter filing. ORA may audit such account.</p> <p>In considering these proposals, we take notice of the record in R.15-01-008, especially procedural developments in that proceeding subsequent to the filing of the August 3, 2016 Settlement Motion in the instant proceeding. On November 21, 2016 the assigned ALJ in R.15-01-008 issued a ruling that, among other things, sought comments from parties on the scoping memo question of whether a two-way balancing account ("New Environmental Regulations Balancing Accounts" or "NERBA") should be established for interim cost recovery in that proceeding. Parties filed comments responsive that question on December 9, 2016 and reply comments on December 22, 2016.</p> <p>We conclude that we should not decide this question in this GRC decision because it is now actively pending in R.15-01-008. The proposal to adopt the new balancing account is</p>	
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	<p>denied without prejudice. Pages 198-200.</p> <p>6. Comments on Alternate Proposed Decision</p> <p>Comments on the PD were filed on March 20, 2017 by PG&E, TURN, ORA, CFC, A4NR, Settling Parties (A4NR and CAUSE were parties to the Settlement Agreement, but did not join in these comments), PG&E and ORA (jointly) and EDF, CUE and PG&E (jointly). Page 215.</p> <p>6.5.2. New Environmental Regulatory Balancing Account</p> <p>The APD reaches the same result as the PD, using identical language, regarding proposals for a 6.5.2. New Environmental Regulatory Balancing Account, so comments on the PD are considered here. CUE, PG&E and EDF (jointly) recommend that the PD should be revised to approve the New Environmental Regulatory Balancing Account proposed in Section 4.2 of the Settlement Agreement, arguing that it remains uncertain whether the Gas Leak OIR will address cost recovery because a ruling on the matter is still pending. This is insufficient reason to address this matter here, and we leave the APD unchanged. Page 230.</p>	
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B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: CCUE		Verified
d. Intervenor's claim of non-duplication: EDF's advocacy was not duplicative of other parties' efforts. EDF produced stand-alone documents and testimonies during the proceeding, which focused on the issue of methane emissions and remediation within the natural gas distribution system.		Verified

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§ 1801 and § 1806):**

a. Intervenor's claim of cost reasonableness: EDF's costs were reasonable for the extensive general rate proceedings, which proceeded for over 18 months and involved intense settlement negotiations. The office carefully considered its advocacy during the course of the docket and attempted to use cost-effective methods over the course of the proceeding.	CPUC Discussion Verified
b. Reasonableness of hours claimed: EDF worked diligently throughout the process to only spend a reasonable and prudent amount of time.	Verified
c. Allocation of hours by issue: All of EDF's work involved the issue of methane emissions within the natural gas distribution system.	Verified

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Amanda Johnson	2015	17.5	\$165	D. 16-10-014	\$2,887.5	17.5	\$165.00	\$2,887.50
Amanda Johnson	2016	84	\$180	ALJ-308	\$15,120	84	\$170.00 ¹	\$14,280.00

¹ Application of Res. ALJ-329.

Amanda Johnson	2017	15	\$180	ALJ-308	\$2,700	15	\$175.00 ²	\$2,625.00
Jennifer Weberski	2015	6.75	\$400	D. 15-11-037	\$2,700	6.75	\$400.00	\$2,700.00
Jennifer Weberski	2016	91.75	\$405	D. 15-11-037	\$37,158.75	91.75	\$405.00 ³	\$37,158.75
Timothy O'Connor	2015	8.5	\$320	D. 15-11-037	\$2,720	8.5	\$320.00	\$2,720.00
Timothy O'Connor	2016	45.5	\$325	D. 15-11-037	\$14,787.50	45.5	\$325.00 ⁴	\$14,787.50
Timothy O'Connor	2017	6	\$325	D. 15-11-037	\$1,950	6	\$330.00 ⁵	\$1,980.00
Subtotal: \$80,023.75						Subtotal: \$79,138.75		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Jennifer Weberski	2016	5	\$202.50	D. 15-11-037	\$1,012.50	5	\$202.50	\$1,012.50
Jennifer Weberski	2017	4	\$202.50	D. 15-11-037	\$810	4	\$207.50	\$830.00
Amanda Johnson	2015	4.5	\$82.50	D. 16-10-014	\$371.25	4.5	\$82.50	\$371.25
Amanda Johnson	2017	4	\$90	D. 16-10-014	\$360	4	\$87.50	\$350.00
Subtotal: \$2,553.75						Subtotal: \$2,563.75		
TOTAL REQUEST: \$82,577.50						TOTAL AWARD: \$81,701.50		
<p>*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer’s normal hourly rate</p>								

² Application of Res. ALJ-345.

³ Application of Res. ALJ-329.

⁴ Application of Res. ALJ-329.

⁵ Application of Res. ALJ-345.

ATTORNEY INFORMATION			
Attorney	Date Admitted to CA BAR ⁶	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Amanda Johnson	June 2015	303457	No
Timothy O'Connor	July 2007	250490	No

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
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B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?	Yes
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FINDINGS OF FACT

1. Environmental Defense Fund has made a substantial contribution to D.17-05-013.
2. The requested hourly rates for Environmental Defense Fund's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$81,701.50.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

⁶ This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch> .

ORDER

1. Environmental Defense Fund shall be awarded \$81,701.50.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay Environmental Defense Fund the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning August 29, 2017, the 75th day after the filing of Environmental Defense Fund's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated September 14, 2017, at San Francisco, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D1709015	Modifies Decision?	No
Contribution Decision(s):	D1705013		
Proceeding(s):	A1509001		
Author:	ALJ Roscow		
Payer(s):	Pacific Gas and Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Environmental Defense Fund	June 15, 2017	\$82,397.50	\$81,701.50	N/A	Higher Hourly Rates

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Amanda	Johnson	Attorney	EDF	\$165	2015	\$165
Amanda	Johnson	Attorney	EDF	\$180	2016	\$170
Amanda	Johnson	Attorney	EDF	\$180	2017	\$175
Jennifer	Weberski	Attorney	EDF	\$400	2015	\$400
Jennifer	Weberski	Attorney	EDF	\$405	2016	\$405
Jennifer	Weberski	Attorney	EDF	\$405	2017	\$415
Timothy	O' Connor	Attorney	EDF	\$320	2015	\$320
Timothy	O' Connor	Attorney	EDF	\$325	2016	\$325
Timothy	O' Connor	Attorney	EDF	\$325	2017	\$330

(END OF APPENDIX)